REMARKS

The Office Action dated April 6, 2005, has been received and carefully considered. Reconsideration of the outstanding rejections in the present application is also respectfully requested based on the following remarks.

I. THE OBVIOUSNESS REJECTION OF CLAIMS 1-24

On page 2 of the Office Action, claims 1-3, 6-9, 11-15, 18-21, 23 and 24 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Pickering (U.S. Patent No. 6,628,666) in view of Oran (U.S. Patent No. 6,275,574). On page 4 of the Office Action, claims 4 and 16 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Pickering, in view of Oran, and further in view of Alperovich (U.S. Patent No. 6,728,215). On page 5 of the Office Action, claims 5 and 17 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Pickering, in view of Oran, and further in view of Bridgman (U.S. Patent No. 6,523,062). On page 5 of the Office Action, claims 10 and 22 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Pickering, in view of Oran, further in view of Kuthyar (U.S. Patent No. 5,768,513). These rejections are hereby respectfully traversed.

Regarding claims 1 and 13, the Examiner asserts that Pickering teaches "a first interface (interface between

telephone and computer) to a telephone device (col. 5, lines 60-col. 6, line 12); a second interface (internet interface or telephone interface) to at least one communication link (col. 5, line 60-col. 6, line 12); and a host (ref. 202: computer), communicating with the first interface and the second interface, the host, after receiving a call initiation via a first interface, selectively initiating a call from the network-enabled telephone device as at least one of a telephone call and a data connection via the at least one communications link and a data connection via the at least one communications link according to at least one transmission criterion.

Applicant respectfully submits that Pickering does not teach or suggest any feature or functionality comprising a host, communicating with the first interface and the second interface, ***the host selectively initiating a call from the network-enabled telephone device as at least one of a telephone call and a data connection via the at least one communications link according to at least one transmission criterion.***

Applicant respectfully submits that the excerpt replied upon by the Examiner as allegedly disclosing the recitation merely discloses a system that switches between IPNT and PSTN/ISDN calls (e.g., the call has already been initiated), but does not teach or suggest any feature or functionality whereby

the host (ref. 202: computer) "selectively initiates" a call from the network enabled telephone device:

> As briefly discussed with reference to the background section, bandwidth is shared on the Internet, and must be available at a sufficient magnitude for the success of the IP call. Also, there are typically many routing points through which IP calls must pass. Available bandwidth can vary from one routing point to another. Therefore, software of the present invention (SW), of which there is an instance installed on PC 202, must monitor for available bandwidth along the entire path between PC 202 and finally processor 175. This may be accomplished by using existing techniques known in the art such as RSVP. RTP may be utilized as well provided that it is supported in the Internet phone application used by the customer at station 200.
>
> SW has a pre-stored threshold for bandwidth needed for supporting IP calls from station 200. If bandwidth is found to be available at or above the preset threshold, then the IP call may proceed with acceptable quality between the agent at station 160 and the client at station 200.
>
> In conventional art if there is not sufficient bandwidth available in one or more points along the routing path of the IP call, then the call would still be delivered, however the quality of communication may be substandard primarily because of lost packets of information. For example, voice may be choppy or unintelligible, video may be delayed, or not available at all, and so on.
>
> A method according to the present invention allows for the client to be prompted via SW in the event that a desired quality of service cannot be reserved. A prompt, in this case, offers an option for the customer to switch the call over to another media type such as PSTN or ISDN. If a customer elects to switch, then his modem may dial the number through receiver modular cable 173, customer's telephone 200 and telephone channel 182 as call 104. The call is delivered to the agent at station 160 to which the

> IPNT call was connected. Once the conventional call is established the original IP call is terminated.
>
> After the original call is terminated and the PSTN/ISDN call proceeds, SW in a preferred embodiment continues to ping the opposite terminal point for bandwidth, indicated by latency. If sufficient bandwidth (minimum latency) becomes again available via the Internet route, the call may be switched back to an IPNT call, and the PSTN/ISDN call may then be terminated.

See Pickering, Col. 6, lines 24-67.

Similarly, Applicant respectfully submits that Pickering does not teach or suggest any feature or functionality that (1) "receiv[es] a call initiation request, via a first interface to a network-enabled telephone device," or (2) "selectively initiat[es] a call from the network-enabled telephone device as at least one of a telephone call and a data connection via at least one communications link according to at least one transmission criterion," as expressly recited in claim 13. In particular, Applicant respectfully submits that Pickering does not teach or suggest any feature or functionality that comprises a call initiation request, or, as set forth above, that selectively initiates a call from the network-enabled telephone device as at least one of a telephone call and a data connection via at least one communications link according to at least one transmission criterion.

Further, the Examiner asserts -- and Applicant agrees -- that Pickering does not expressly disclose a first interface to a network-enabled telephone device." However, Applicant respectfully disagrees with the Examiner that Oran makes up for Pickering's deficiency in this regard. In particular, Applicant respectfully submits that while Oran generally discloses an Internet Protocol phone (I-phone), Oran does not teach or suggest any feature or functionality whereby a network-enabled phone is used as recited in the pending claims.

For example, as set forth above, Oran does not make up for Pickering's deficiency in failing to disclose "a host, communicating with the first interface and the second interface, the host selectively initiating a call from the network-enabled telephone device as at least one of a telephone call and a data connection via the at least one communications link according to at least one transmission criterion," as recited in independent claim 1. Similarly, Oran does not teach or suggest a network-enabled telephone device that sends a call initiation request to a host," or (2) a host that "selectively initiat[es] a call from the network-enabled telephone device as at least one of a telephone call and a data connection via at least one communications link according to at least one transmission criterion," as recited in independent claim 13.

Moreover, Applicant respectfully submits that the Examiner has not set forth a proper motivation to combine the references to achieve the claimed systems and methods. In particular, Applicant respectfully submits that neither Pickering nor Oran discloses a need (or desire) to incorporate an network-based telephone as recited in each of the pending claims. In addition, Applicant respectfully submits that Pickering would not benefit from incorporating the teachings of Oran. That is, there is no teaching or suggestion in Pickering (or Oran) that incorporating Oran's Internet Protocol phone would solve any problems or deficiencies with Pickering's system and method.

Claims 2-12 and 14-24 are dependent upon independent claim 1 or 13. Thus, since independent claims 1 and 13 should be allowable as discussed above, claims 2-12 and 14-24 should also be allowable at least by virtue of their dependency on independent claim 1 or 13. Moreover, these claims recite additional features which are not claimed, disclosed, or even suggested by the cited references taken either alone or in combination. For example, claim 2 recites wherein the network-enabled telephone device comprises a SIP-enabled telephone device. Applicant respectfully submits that neither Pickering nor Oran, alone or in combination, teaches or suggests the

system of claim 1 wherein the network-enabled telephone device comprises a SIP-enabled telephone device.

In view of the foregoing, it is respectfully requested that the aforementioned anticipation rejection of claims 1-24 be withdrawn.

II. CONCLUSION

In view of the foregoing, it is respectfully submitted that the present application is in condition for allowance, and an early indication of the same is courteously solicited. The Examiner is respectfully requested to contact the undersigned by telephone at the below listed telephone number, in order to expedite resolution of any issues and to expedite passage of the present application to issue, if any comments, questions, or suggestions arise in connection with the present application.

To the extent necessary, a petition for an extension of time under 37 CFR § 1.136 is hereby made.

Please charge any shortage in fees due in connection with the filing of this paper, including extension of time fees, to

Deposit Account No. 50-0206, and please credit any excess fees to the same deposit account.

Respectfully submitted,

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